

PASSED
11-14-18

**BEFORE THE ORANGE VILLAGE COUNCIL
ORANGE VILLAGE, OHIO**

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|-------------------------------------|---|-----------------------------------|
| IN RE: VARIANCE REQUEST OF |) | <u>FINAL ORDER AND</u> |
| MARK AND CAROLINE KANGAS, |) | <u>DECISION OF COUNCIL</u> |
| OWNERS OF CERTAIN PROPERTY |) | <u>CONCLUSIONS OF FACT</u> |
| LOCATED AT 29850 SMITHFIELD |) | |
| ROAD, AND KNOWN AS PERMANENT |) | |
| PARCEL NO. 901-23-001 |) | |

This matter is before the Orange Village Council pursuant to the request of Mark and Caroline Kangas ("Applicants"). The Applicants have presented a request for a variance as the owners of real property known as Permanent Parcel No. 901-23-001, Orange Village, Ohio and whose street address is 29850 Smithfield Road (the "Subject Property").

The Applicants' property fronts on the south side of Smithfield Road and the east side of North Hilltop Road. Pursuant to Section 1140.05(24)(H) of the Orange Village Codified Ordinances, the southern property line and eastern property line are both "rear lot lines".

Section 1148.08 of the Codified Ordinances of Orange Village, Ohio, requires that properties in the U-1 Zoning District have a minimum rear setback of fifty feet (50'). The Applicants are requesting a variance from the requirement of 1148.08 of the Codified Ordinances in the amount of thirty feet (30') to permit an addition to be constructed on the east side of the Applicants' residence, which addition would not be built not less than twenty feet (20') from the eastern rear lot line.

Ordinance No. 2018-35 is before this Council, and would, if passed, grant the requested variance.

The Orange Village Planning and Zoning Commission ("Commission") met on November 6, 2018, received evidence and testimony, and heard the argument of the Applicants. The Commission, on a vote of 5-0, recommended that Council pass Ordinance No. 2018-35.

This Council held a public hearing on November 14, 2018 and considered the matter. This Final Order and Decision of Council is predicated upon all of the evidence and testimony on the record before Council and, in consideration thereof, the following conclusions of fact are made:

- 1) The orientation of Subject Property is rare, if not unique. The lot is longer on the north-south axis, but the residence faces to the west. Thus, the depth of the lot from "front to back," as it relates to the residence, is relatively short.
- 2) The proposed addition to the residence needs to be placed at the rear of the residence, i.e. the east side, if it is to function and provide the Applicants with the size of space that is needed for the house to continue to function for their family.
- 3) The neighboring residence that would be most directly affected by the granting of the requested variance is owned by Michael D. Roberts and is located to the east

of the Subject Property, which property is known as 29950 Smithfield Road. The Applicants submitted a letter from Mr. Roberts to the Village that he favored the proposed variance.

- 4) The Applicants also provided the Commission with written consent and approval of the intended variance by the each of their other neighbors: Craig Sesnowitz of 29999 Smithfield Road and Jeffrey S. Foster of 4260 N. Hilltop Road, and, most importantly, Michael D. Roberts of 29950 Smithfield Road.
- 5) The Applicants presented information to the Planning and Zoning Commission which noted several characteristics which make the Subject Property unique, *to wit*: that the existing residence was constructed in 1937, prior to the current provisions of the zoning code; that the Subject Property sits on a corner lot bordered by Smithfield Road to the north and North Hilltop Road to the west, thereby creating rear lot lines to both the south and east of the Subject Property.
- 6) The Applicants assert that since the purchase of the Subject Property, their family has grown to include the birth of three (3) children and that they have outgrown the residence as it currently exists. The Applicants further states that it is their intention to reside in the home well into the foreseeable future and that the additional square footage and amenities provided by the addition will increase the market value of the Subject Property closer to comparable properties within the area.
- 7) The requested variance is not substantial, given the nature of the project and the unique layout of the Subject Property.
- 8) There exists no adverse impact on neighboring properties that would result from the granting of the variance, so the strict application of the setback requirement does not advance the legitimate governmental purpose of the requirement.
- 9) The requested variance does not adversely impact the delivery of governmental services.
- 10) The neighbors were provided the required notice of the proposed variance, no objections have been received by the Village from any neighbors, and the most immediate neighbors expressed their support for the variance.
- 11) The spirit and intent of the Zoning Code are observed by granting the variance.

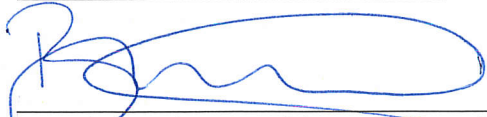
WHEREFORE, IT IS ORDERED, that the variance requested by the Applicants, the plans for which are on file with the Chief Building Official, be and is hereby granted. The members of Council subscribing their names hereto will vote yes on Ordinance No. 2018-35, but this document is deemed to be the final order in this matter.

IT IS FURTHER ORDERED, that the Clerk of Council shall mail a copy of this Final Order and Decision of Council and Conclusions of Fact to the Applicants, and any other parties requesting same, by Certified Mail, return receipt requested, and enter proof of mailing in the

record of this case. The decision of this Council shall be deemed to be final upon the date the Clerk mails this document, as provided herein.

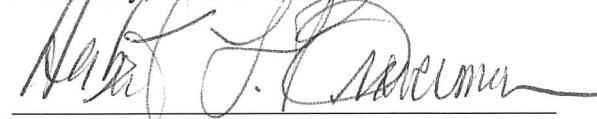
Adopted this 14th day of November, 2018, by a majority of the members of the Orange Village Council, who have subscribed their names below.

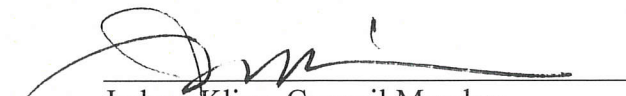
ORANGE VILLAGE COUNCIL


Brandon Duber, President of Council

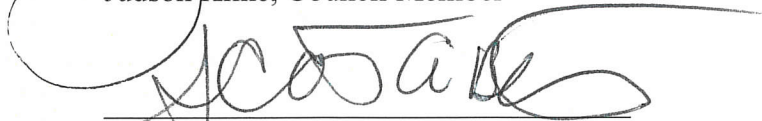

Ronald Barron, Council Member


Lisa Perry, Council Member

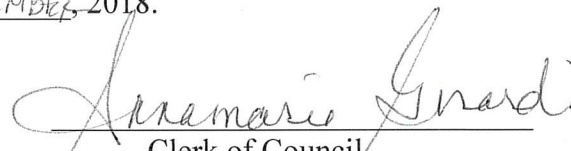

Herbert Braverman, Council Member


Judson Kline, Council Member


Frances Kluter, Council Member


Scott Bilsky, Council Member

Notice mailed this 14th day of NOVEMBER, 2018.


Clerk of Council